

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROBERT THACKSTON,

Plaintiff,

V.

DANIEL P. DRISCOLL, Secretary of
the Army,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. SA-24-CA-276-FB

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Before the Court are the Report and Recommendation of United States Magistrate Judge (docket no. 27 concerning Defendant's Motion to Dismiss First Amended Complaint (docket no. 15), along with Plaintiff's and Defendant's written objections (docket nos. 28 & 29) thereto.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report and Recommendation to which objection is made requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

The Court has thoroughly analyzed the submissions in light of the entire record. As required by Title 28 U.S.C. § 636(b)(1)(c), the Court has conducted an independent review of the entire record in this cause and has conducted a de novo review with respect to those matters raised by the objections. After due consideration, the Court concludes the objections lack merit.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge (docket no. 27) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendant's Motion to Dismiss First Amended Complaint (docket no. 15) is GRANTED IN PART and DENIED IN PART, and specifically that:

- * Plaintiff's disability discrimination claims under the Rehabilitation Act based on Defendant's failure to promote him in July 2021, May 2022, and August 2022 survive; his other discrimination claims are DISMISSED.
- * Plaintiff's Rehabilitation Act retaliation claims based on his internal complaints and Defendant's failure to promote him in July 2021, May 2022, and August 2022 survive, but his other retaliation claims are DISMISSED.
- * Plaintiff's hostile work environment claim is DISMISSED.

It is so ORDERED.

SIGNED this 27th day of March, 2025.



FRED BIERY
UNITED STATES DISTRICT JUDGE